

**UNITED STATES DISTRICT COURT
DISTRICT OF RHODE ISLAND**

**KENNETH FITCH
ESTATE OF DIANNE L. FITCH**

Plaintiffs,

v.

**FEDERAL HOUSING FINANCE
AGENCY,
FEDERAL NATIONAL
MORTGAGE ASSOCIATION,
WELLS FARGO BANK, N.A.,
HARMON LAW OFFICES, P.C., and
266 PUTNAM AVENUE, LLC.**

Defendants.

C.A. No. 1:18-cv-00214-JJM-PAS

HARMON LAW OFFICES, P.C.'S RENEWED MOTION TO DISMISS

Defendant Harmon Law Offices, P.C. ("Harmon") moves to dismiss plaintiffs' claims pursuant to Rule 12(b)(6). As grounds for dismissal, Harmon states as follows:

1. On or about June 28, 2018, Harmon filed a motion to dismiss. Thereafter, the plaintiff sought and was granted multiple extensions of time to respond to the motion.
2. Plaintiff's counsel represented that he intended to amend the complaint and ultimately, the Court set a scheduling order establishing the deadline for the complaint to be amended. The court also denied Harmon's motion to dismiss without prejudice and set the time for any responsive pleadings until 30 days after the Amended Complaint was filed.

3. The deadline for amending the complaint and the subsequent extension of the deadline to February 4, 2019 has long since passed. Harmon now seeks to renew its motion to dismiss.
4. Counts I through V and Counts VII and VIII are directed at the other defendants, not Harmon.
5. Count VI (which is also labeled Count V in the complaint) alleges that Harmon violated the provisions of the FDCPA codified at 15 U.S.C. 1692e(5), however, neither Mr. Fitch nor the Estate are debtors as defined by the FDCPA, Harmon is not a debt collector for the purposes of section 1692e and there are no facts alleged in support of any violation of the act by Harmon.
6. During the pendency of this case, the United States Supreme Court issued its decision in *Obduskey v. McCarthy & Holthus LLP*, 139 S.Ct. 1029, 1031 (U.S., 2019), which Harmon believes requires the dismissal of the plaintiff's claims.

For these reasons, and as more fully set forth in the memorandum of law filed herewith, Harmon respectfully requests that plaintiffs' complaint be dismissed.

Respectfully submitted,
HARMON LAW OFFICES, P.C.,
By its attorney,

/s/ Thomas. J. Walsh

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Dated: June 4, 2019

CERTIFICATE OF SERVICE

I, Thomas J. Walsh, hereby certify that on June 4, 2019 a true and accurate copy of this document was filed through the Court's ECF system and will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF).

Thomas J. Walsh
Thomas J. Walsh